

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

|                                |   |                              |
|--------------------------------|---|------------------------------|
| SANTERIO DUSHAWN POTTS,        | ) |                              |
| #309 924,                      | ) |                              |
|                                | ) |                              |
| Plaintiff,                     | ) |                              |
|                                | ) |                              |
| v.                             | ) | Case No.: 3:19-cv-307-WHA-WC |
|                                | ) |                              |
| THE CITY POLICE DEPARTMENT     | ) |                              |
| OF LANETT, AL, <i>et al.</i> , | ) |                              |
|                                | ) |                              |
| Defendants.                    | ) |                              |

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

Plaintiff, an inmate incarcerated at the Bullock Correctional Facility filed this action on April 30, 2019, under 42 U.S.C. § 1983. Plaintiff filed an affidavit in support of a motion for leave to proceed *in forma pauperis*. The motion, however, did not include the required documentation from the inmate account clerk. The court, therefore, did not have the information necessary to determine whether Plaintiff should be allowed to proceed *in forma pauperis* in this case and entered an order on May 1, 2019, requiring Plaintiff to provide the court with this information on or before May 15, 2019. Doc. 3 at 1–2. The document filed by Plaintiff on May 20, 2019, however, failed to contain the requested information regarding his inmate account. Doc. 4. The court, therefore, entered an order on May 24, 2019, granting Plaintiff additional time to comply with the May 1, 2019, order and specifically cautioning Plaintiff that failure to comply with the May 24 order would result in a recommendation that this case be dismissed. *Id.* at 2.

The requisite time has passed, and Plaintiff has not complied with the May 24, 2019, order. The Court, therefore, concludes that this case is due to be dismissed. *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989) (As a general rule, where a litigant has been forewarned, dismissal for failure to obey a court order is not an abuse of discretion.); *see also Tanner v. Neal*, 232 Fed. App'x 924 (11th Cir. 2007) (affirming *sua sponte* dismissal without prejudice of inmate's § 1983 action for failure to file an amended complaint in compliance with court's prior order directing amendment and warning of consequences for failure to comply).

Accordingly, it is the RECOMMENDATION of the Magistrate Judge this case be DISMISSED without prejudice for Plaintiff's failures to comply with the order of the court and to prosecute this action.

The Clerk of the Court is DIRECTED to file the Recommendation of the Magistrate Judge and to serve a copy on Plaintiff. Plaintiff may file any objection to this Recommendation **on or before July 22, 2019**. Any objection filed must specifically identify the factual findings and legal conclusions in the Magistrate Judge's Recommendation to which Plaintiff objects. Frivolous, conclusive or general objections will not be considered by the District Court.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall "waive the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions" except upon grounds of plain error if necessary in the interests of justice. 11th

Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993) (“When the magistrate provides such notice and a party still fails to object to the findings of fact and those findings are adopted by the district court the party may not challenge them on appeal in the absence of plain error or manifest injustice.”); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE this the 8th day of July, 2019

/s/ Wallace Capel, Jr.

WALLACE CAPEL, JR.

CHIEF UNITED STATES MAGISTRATE JUDGE